IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.A.No.253 SB of 1995
Date of decision: 25.4.2007

Nishan Singh and others

….. Appellants

State of Punjab

…..Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

Present Mr. HS Gill, Sr. Advocate with
Mr. RK Dhiman, Advocate, for the petitioner.
Mr. BPS Virk, Advocate.
Mr. HS Brar, DAG, Punjab.
Balkar Singh, brother of Gurmit Singh,injured.

JUDGMENT :

The appellants challenge their conviction under sections 307/34 IPC and Sections 27/29 of the Indian Arms Act, 1959 for which they have been sentenced as under:-

"Nishan Singh – U/s 307 IPC	To undergo rigorous imprisonment for four years and to pay a fine of Rs.500/- or in default of payment of fine to further undergo rigorous imprisonment for two months.
Nishan Singh – U/S 27 Arms Act.	To undergo rigorous Imprisonment for three years and to pay a fine of Rs.500/- or in default of payment of fine to further undergo rigorous imprisonment for two months.

Hoshiar Singh Avtar Singh	U/S 307 read with section 34 of the IPC.	To undergo rigorous imprisonment for four years and to pay a fine of Rs.500/- Each or in default of payment of fine to further undergo rigorous imprisonment for two months.
Sant Daljit Singh –	U/S 29 Arms Act.	To pay a fine of Rs.1000/- (Rupees one thousand only) or in default of payment of fine to undergo RI for three months.

Both the substantive sentences of accused Nishan Singh shall run concurrently."

Case of the prosecution is that on 17.2.1992 at 7/7.30 PM, Avtar Singh, his brother Hoshiar Singh and his son Nishan Singh armed with .12 bore double barrel gun came to the street outside the house of Gurmit Singh and started raising a 'lalkara' and giving abuses to Gurmit Singh and Dharam Singh. This resulted in a verbal duel between the parties followed by Avtar Singh exhorting Hoshiar Singh to shoot Gurmit Singh and teaching him lesson for draining out the water through their fields. Nishan Singh fired two shots one of which hit Gurmit Singh on the knee and the other on the leg-calf. He raised alarm on which the accused ran away. Gurmit Singh was taken to Civil Hospital, Dasuya where ASI Kuldip Singh PW11 recorded his statement which led to recording of FIR. The gun belonged to Sant Daljit Singh, accused.

The prosecution cited as many as 17 witnesses. In support of its case, prosecution examined PW1 Jatinder Kumar

Singh, PW2 Jasbir Singh, PW3 Dharam Singh, PW4 Gurmit Singh, complainant, PW5 Joginder Singh, PW6 Ajit Singh, PW7 Apar Singh, PW8 Dr. Jarnail Singh, PW9 Dr. HS Sandhu, PW10 SP Chaudhary and PW11 SI Kuldip Singh.

The accused denied the prosecution allegations and examined DW1 Sukhdev Singh, Dr. Gurmail Singh DW2, Harbans Singh DW3 and Didar Singh DW4.

After considering the evidence on record, particularly the evidence of Dharam Singh PW3, Gurmit Singh PW4, and Joginder Singh PW5, who were all eye witnesses and evidence of Dr. Jarnail Singh PW8 and the other evidence, the trial court held the case of the prosecution to be fully proved beyond reasonable doubt and convicted and sentenced them as above.

Learned counsel for the appellants, at the outset, stated that in view of direct evidence of eye witnesses, he could not question the conviction of the appellants but having regard to the fact that the occurrence took place 15 years ago, lenient view may be taken on sentence having regard to the fact that the appellants have compensated the injured Gurmit Singh, who is now settled abroad. Balbir Singh, brother of the injured Gurmit Singh is present in Court through Mr. BPS Virk, Advocate and stated that he has no objection to the lenient view being taken on sentence and the parties are living peacefully.

In the circumstances of the case, I am of the view that ends of justice will be met if the substantive sentence awarded to the appellants is reduced to the period of sentence already undergone. Accordingly, while upholding the conviction of the appellants, their substantive sentence is reduced to the period of sentence already undergone.

The appeal is disposed of.

April 25, 2007 (Adarsh Kumar Goel)
'gs' Judge